

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Joshua Galle,

Plaintiff,

vs.

Atrium Health, Inc.,¹

Defendant.

Civil Action No. 3:20-cv-00391

**DEFENDANT’S MOTION FOR PARTIAL
DISMISSAL**

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure and Local Rule 7.1, Defendant the Charlotte Mecklenburg Hospital Authority d/b/a Atrium Health (“Defendant” or “Atrium Health”), by and through its undersigned counsel, hereby moves this Court to dismiss Counts II and III of the Complaint (Dkt. No. 1) for Plaintiff Joshua Galle’s (“Plaintiff”) failure to state a claim upon which relief can be granted. With respect to Count II for alleged discrimination and retaliation in violation of the ADAAA, Plaintiff failed to allege or otherwise demonstrate that he complied with the administrative prerequisites to filing this lawsuit. Similarly, with respect to Count III, the Complaint fails to plead sufficient facts to establish any legally cognizable breach of contract claim.

Accordingly, and for the reasons detailed in Defendant’s contemporaneously-filed Memorandum in Support of this Partial Motion to Dismiss, Plaintiff’s ADA/ADAAA and breach of contract claims should be dismissed, with prejudice.

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¹ The correct defendant entity in this matter is the Charlotte Mecklenburg Hospital Authority d/b/a Atrium Health, which respectfully requests that the correct entity name be substituted in this lawsuit’s caption.

Dated: August 24, 2020

/s/Elizabeth H. Pratt

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CERTIFICATE OF SERVICE

This is to certify that on August 24, 2020, the undersigned filed the foregoing using the Court's CM/ECF system which will send notification of such filing to the following CM/ECF participants in this case.

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